

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	09/824,034	HATAKEYAMA, KOICHI	
	Examiner	Art Unit	
	Nicholas D. Rosen	3625	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Appeal Brief of 12/19/2005.
2. ☒ The allowed claim(s) is/are 1 and 2.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

Claims 1 and 2 are allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Oakley (Canadian Published Patent Application 2,225,190), discloses an online distribution system, comprising: a search server (page 5, lines 16-30; page 10, lines 7-14); a data distribution server (page 2, line 27, through page 3, line 13); and a download terminal connected to said data distribution server (page 5, lines 16-30). Oakley does not expressly disclose a personal terminal, distinct from the download terminal, to which said search server is connectable, but such a terminal is held to be inherent, as necessary to access the Internet Web Site (page 10, lines 7-14). Oakley does not disclose that the download terminal is connected to the search server through the data distribution server. It is well known to connect to Internet Web Sites, and thus to the servers on which they are available, through the servers of ISP's, LAN's, WAN's, or other business, etc., servers, but it is questionable whether this makes the particular arrangement recited in claim 1 obvious.

Oakley discloses (by inherency) that said search server includes a database for storing a plurality of songs or other works for distribution information (page 10, lines 7-17). Oakley does not expressly disclose that this search server includes title search means for searching the titles stored in the database, but it is well known to identify and search for musical and other works by their titles. Oakley's disclosure of recalling pre-

chosen track lists at the download terminal implies that subscription and identification information must be stored and transmitted by some means from the search server and/or personal terminal to the download terminal. Oakley discloses a data distribution server including distribution information storage means for storing the distribution information (page 2, line 27, through page 3, line 13). Oakley discloses that the download terminal includes identification information acquisition means for acquiring identification information inputted from the outside (page 10, lines 7-14), first readout means for reading out, based on identification information acquired by said identification information acquisition means, the title stored in said subscription information storage means of said search server which correspond to the identification information (page 10, lines 7-14), second readout means for reading out the distribution information corresponding to the information read out by the first readout means from said distribution information storage means of said data distribution server, and recording means for recording the distribution information read out by said second readout means onto a recording medium (page 10, lines 7-14; page 2, line 23, through page 3, line 2). Oakley discloses caches so that some data is stored locally, while other files are downloaded from distant sources (page 3, lines 8-13; page 5, lines 16-30; page 11, lines 21-27), but not a cache server in which part of the distribution information stored in said distribution information storage means of said data distribution server is stored in advance, and wherein said download terminal acquires, when the distribution information of the title corresponding to the identification information stored in said subscription information means of said search server is stored in said cache server, the

distributed information from said cache server, but acquires, when the distribution information is not stored in said cache server, the distribution information from said distribution information storage means of said data distribution server. Cache servers are known, as taught, for example, by Finneran ("The Big Story – It's All the Same Thing"), but this is held not sufficient to make the particular use of a cache server set forth in claim 1 obvious, particularly in view of Oakley's failure to disclose that the download terminal is connected to the search server through the data distribution server. While no feature of claim 1 is novel, there is a lack of motivation to reconstruct the claimed system as a whole from the teachings of the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Finneran ("The Big Story - It's All the Same Thing") discloses cache servers to reduce the volume of Internet traffic.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Nicholas D. Rosen*  
NICHOLAS D. ROSEN  
PRIMARY EXAMINER

January 10, 2006